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Guidance Type: Conservation Standards

Category: Residential Products

Product: Residential furnaces, central air conditioners and heat pumps

Guidance Version: FINAL

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Q: Is the compliance date for regional energy conservation standards for residential furnaces, central air conditioners, and heat pumps tied to the product's date of manufacture or date of installation?

A: Although the compliance date for the base national standards for these products is tied to the date of manufacture, the EISA 2007 amendments to the Energy Policy and Conservation Act (EPCA) specifically tied the compliance date for regional standards to the date of installation. The U.S. Department of Energy (DOE) is constrained in this regard by the plain language set forth by Congress in the statute, which provides at 42 U.S.C. 6295(o)(6)(E) that the base national standard shall “apply to all products manufactured or imported into the United States on and after the effective date of the standard,” but which also provides in the same section that “[a]ny additional and more restrictive regional standard ... shall apply to any such product *installed* on or after the effective date of the standard...” (emphasis added). Clearly, these terms have very distinct and different meanings, and Congress expressly differentiated between the two within the same statutory provision. DOE is not at liberty to adopt a contrary interpretation that would violate the statute.

Background: On June 27, 2011, the Department published a direct final rule (DFR) in the *Federal Register* which set energy conservation standards for residential furnaces, central air conditioners, and heat pumps. 76 FR 37408. These standard levels were subsequently confirmed in a final rule published in the *Federal Register* on October 31, 2012 that recited the compliance dates of these standards. 76 FR 67037. This rulemaking was the first instance of DOE establishing energy conservation standards on a regional basis pursuant to authority provided DOE in 2007. In a May 17, 2012 letter to DOE, the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) sought clarification of the relevant regulatory provisions and urged DOE to tie the compliance date for regional standards to the date of manufacture of the product in question, rather than the installation date of such product.

However, DOE has since recognized the potential for confusion associated with its chosen language. Specifically, in the amendatory language for 10 CFR 430.32(c)(4) and (5) and 10 CFR 430.32(e)(1)(iii), DOE set forth the requirements for products “manufactured on or after [date] ... and installed in the States of ...” 76 FR 37408, 37547-48 (June 27, 2011). The Department has already taken steps to make clear that the express words of the statute apply. More specifically, in its Regional Standards Enforcement Framework Document, footnote 1 on page 3 states, “The Department notes that the current regulations, as amended by the direct final rule, inadvertently states that regional standards are applied to the products based on ‘manufactured’ date rather than the ‘installed’ date.” (See: http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/furncac_regstnd_enforceframework.pdf) DOE plans to amend the relevant regulatory provisions to address any imprecision in the language.